

RESOLUTION NO. 2020-16

A RESOLUTION OF THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, CALLING A SPECIAL ELECTION TO BE HELD ON AUGUST 4, 2020, IN CONJUNCTION WITH THE CITY'S PRIMARY ELECTION, DECLARING A GAS FRANCHISE BENEFICIAL TO THE CITY OF FLAGSTAFF; DESIGNATING THE TEXT OF A QUESTION AUTHORIZING THE CITY OF FLAGSTAFF TO ENTER INTO A FRANCHISE AGREEMENT AND SETTING FORTH THE PROPOSED FRANCHISE AGREEMENT IN FULL, TO BE VOTED ON BY THE QUALIFIED ELECTORS OF THE CITY OF FLAGSTAFF, PURSUANT TO THE CONSTITUTION AND LAWS OF THE STATE OF ARIZONA AND THE CHARTER OF THE CITY OF FLAGSTAFF

RECITALS:

WHEREAS, on September 19, 1995, the qualified electors of the City of Flagstaff approved a 25-year franchise agreement with Citizens Utilities Company, a Delaware corporation to operate, maintain and construct its natural gas transmission and distribution pipelines and facilities throughout the City of Flagstaff's (the "City") public rights-of-way (the "Current Franchise"); and

WHEREAS, UNS Gas, Inc., an Arizona public service company, doing business as UniSource Energy Services, is the current franchisee, as successor in interest to Citizens Utilities Company;

WHEREAS, Current Franchise expires on October 3, 2020, ending UNS Gas, Inc.'s right to utilize the City's rights-of-way for natural gas transmission and distribution pipelines and facilities; and

WHEREAS, UNS Gas, Inc. has submitted a proposed franchise to the City of Flagstaff for the purpose of supplying natural gas to the citizens of Flagstaff; and

WHEREAS, the Council of the City of Flagstaff has determined that it is beneficial for the City to grant a new franchise to UNS Gas, Inc., conferring the right to utilize the City's rights-of-way for natural gas transmission and distribution; and

WHEREAS, pursuant to the Arizona Constitution, Article XIII, Section 4 and Arizona Revised Statutes § 9-501 a city shall not grant a franchise for a public utility unless authorized by a majority vote of the qualified voters at a regular or special election duly and regularly called for that purpose; and

WHEREAS, pursuant to the Flagstaff City Charter, Article XII, Section 1, a public utility franchise agreement must be approved by a majority of the qualified electors in a primary, general, or special election; and

WHEREAS, the City Council desires to submit to the qualified electors of the City of Flagstaff the approval of a franchise agreement with UNS Gas, Inc. for natural gas transmission and distribution pipelines and facilities in the public rights-of-way.

ENACTMENTS:**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA AS FOLLOWS:**

SECTION 1: That the City Council hereby calls a Special Election of the City to be held on August 4, 2020, for the purpose of submitting to the qualified electors of the City the question substantially in the form set forth in Exhibit "A" attached hereto (the "Official Ballot").

SECTION 2: That the proposed franchise be published in full in some newspaper of general circulation published in the City of Flagstaff for at least thirty (30) consecutive days before the election.

SECTION 3: That

- (A) notice of the Special Election of August 4, 2020, shall be given by mailing an Informational Pamphlet to each household that contains a registered voter within the City not less than thirty-five (35) days before the date of the Election.
- (B) the Clerk of the City is hereby authorized and directed to cause the Informational Pamphlet to be prepared and so mailed according to law and the provisions of this resolution under the circumstances described herein.

SECTION 4: That the Informational Pamphlet shall contain the information required by Section 35-454, Arizona Revised Statutes, as amended, and a sample of the Official Ballot shall be in a form the Clerk of the City deems acceptable.

SECTION 5: That the Official Ballot shall be in substantially the form attached hereto as Exhibit "A."

SECTION 6: That the Clerk of the City is hereby authorized to request arguments for and against the appropriate subject matter of the Election for inclusion in the Informational Pamphlet by providing the notice in substantially the form attached hereto as marked Exhibit "B" (hereinafter referred to as the "Notice for Arguments") by posting the Notice of Arguments at all places at which notices of meetings of the City Council are posted and publishing the Notice of Arguments in the *Arizona Daily Sun*. The deadline to submit arguments shall be 4:00 p.m. MST on May 6, 2020.

SECTION 7: That the polling places and the time the polls will be opened and closed shall be as provided in the Informational Pamphlet. The City Council hereby:

- (A) establishes the election precincts for the Primary/Special Election as those with the same boundaries as the election precincts as provided in Section 16-411, Arizona Revised Statutes, as amended, except as otherwise provided hereby;
- (B) designates each polling place in each precinct as so designated for such precinct;
- (C) approves the consolidation of any precincts as determined to be necessary by the Clerk of the City and by such indication deems such consolidation as necessary for purposes of the Election; and

- (D) with respect to any polling place for a precinct designated within an adjacent precinct, finds that no suitable polling place is available within such precinct.

SECTION 8: That

- (A) the Clerk of the City is hereby authorized and directed to coordinate with the County to have printed and, if appropriate, delivered to the election officers at said polling places, to be by them furnished to the qualified electors of the City offering to vote at the Election, the appropriate version of the Official Ballot.
- (B) in order to comply with the Voting Rights Act of 1965, as amended, the following items pertaining to the Election shall be translated into Spanish as required, to-wit: Informational Pamphlet, Official Ballot, Notice for Arguments, early voting materials and instructions at the polling places.

SECTION 9: That

- (A) the Election shall be held, conducted and canvassed in conformity with the provisions of the general election laws of the State of Arizona, except as otherwise provided by law, and only such persons shall be permitted to vote at the Election who are qualified electors of the City.
- (B) early voting shall be permitted in accordance with the provisions of Title 16, Chapter 4, Article 8, Arizona Revised Statutes, as amended.
- (C) the Clerk of the City is authorized and directed, if necessary, to enter into a contract with the County Recorder of the County, to obtain precinct registers for the Election and, if necessary, to enter into an agreement with the Elections Department of the County to conduct the Election for the City.
- (D) all expenditures as may be necessary to order, notice, hold and administer the Election are hereby authorized, which expenditures shall be paid from current operating funds of the City.
- (E) the Clerk of the City is hereby further authorized to take all other necessary action to facilitate the Election.

SECTION 10: That

- (A) the Election shall be canvassed and the results thereof certified by the City Council within twenty (20) days of the Election, as provided by law.
- (B) the City Council shall file and record in the office of the County Recorder of the County a certificate disclosing with respect to the Election the purpose of the Election, the total number of votes cast and the total number of votes for and against creating the indebtedness and stating whether or not the indebtedness is ordered in each case.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of April, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:

A – Official Ballot

B – Notice for Arguments

EXHIBIT A
OFFICIAL BALLOT

PROPOSITION NO. XXX

OFFICIAL TITLE: A MEASURE REFERRED TO THE PEOPLE BY THE FLAGSTAFF CITY COUNCIL RELATING TO A FRANCHISE AGREEMENT WITH UNS GAS, INC. FOR THE USE OF THE PUBLIC RIGHTS-OF-WAY IN THE CITY OF FLAGSTAFF, ARIZONA FOR THE PURPOSE OF CONSTRUCTING, OPERATING, AND MAINTAINING ITS NATURAL GAS SYSTEM AND DISTRIBUTING NATURAL GAS.

DESCRIPTIVE TITLE: Consideration of a franchise agreement with UNS Gas, Inc. for a period of 25 years for the purpose of constructing, operating, and maintaining its natural gas system and distributing natural gas within the City.

	Proposition XXX
A "yes" vote shall have the effect of approving a franchise agreement with UNS Gas, Inc to use the City-owned public rights-of-way to construct, operate, and maintain its natural gas system and to distribute and sell natural gas within said City.	Yes
A "no" vote shall have the effect of not approving a franchise agreement with UNS Gas, Inc to use the City-owned public rights-of-way to construct, operate, and maintain its natural gas system and to distribute and sell natural gas within said City.	No

EXHIBIT "B"

FORM OF NOTICE FOR ARGUMENTS

REQUEST FOR ARGUMENTS FOR AND AGAINST ISSUES TO
BE PLACED ON THE BALLOT OF THE CITY'S PRIMARY/
SPECIAL ELECTION TO BE HELD ON AUGUST 4, 2020

Pursuant to resolutions adopted by the Council of the City of Flagstaff, Arizona (the "City"), on April 7, 2020, (the "Resolutions"), the following questions to be considered by the qualified electors of the City were ordered to be placed on the ballot at the City's Primary/Special Election to be held on August 4, 2020 (the "Election").

Notice of the Election will be given by mailing an informational pamphlet to include arguments for and against the questions to be considered at the Election. (The full text of the questions to be considered at the Election are included in the respective resolutions which are available at the Office of the Clerk, 211 West Aspen Avenue, Flagstaff, Arizona 86001, and will be available on the City's website under City Clerk/Elections). Any person interested in providing any such argument(s) is hereby requested to provide the same to the City Clerk, before 4:00 p.m., Arizona time on Wednesday, May 6, 2020.

In accordance with Arizona Revised Statutes, each argument filed shall not exceed 300 words and shall contain the sworn statement of each person sponsoring it; if the argument is sponsored by an organization, it shall contain the sworn statement of two executive officers of the organization or if sponsored by a political committee it shall contain the sworn statement of the committee's chairman or treasurer. Each argument filed shall also be submitted in electronic format to the City Clerk's Office at stacy.saltzburg@flagstaffaz.gov. The person or persons signing the argument shall identify themselves by giving their residence or post office address and a telephone number, which information shall not appear in the pamphlet.

PROPOSITION NO. XXX Franchise Agreement with UNS Gas, Inc. (Resolution No. 2020-16)
PROPOSITION NO. XXX Permanent Adjustment of the City's Expenditure Base (Resolution
No. 2018-15)

If you have any questions about the foregoing, please contact Stacy Saltzburg, City Clerk, at 928-213-2076.

/s/ Stacy Saltzburg
Stacy Saltzburg, Flagstaff City Clerk